

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

SMARTPHONE TECHNOLOGIES, LLC,

Plaintiff,

V.

HTC CORPORATION, HTC B.V.I., HTC AMERICA, INC., EXEDEA, INC., NOKIA CORPORATION, NOKIA, INC., SONY ERICSSON MOBILE COMMUNICATIONS AB, SONY ERICSSON MOBILE COMMUNICATIONS (USA), INC., KYOCERA COMMUNICATIONS, INC., and T-MOBILE USA, INC.,

Defendants.

CIVIL ACTION NO. 6:10-cv-580
JURY TRIAL DEMANDED

PLAINTIFF’S REPLY TO THE COUNTERCLAIMS
OF DEFENDANT KYOCERA COMMUNICATIONS, INC.

Plaintiff SmartPhone Technologies, LLC (“Plaintiff”) files this Reply to the Counterclaims of Defendant Kyocera Communications, Inc. (“Kyocera”) as follows. All allegations not expressly admitted or responded to by Plaintiff are denied.

FIRST COUNTERCLAIM

1. Plaintiff admits that Kyocera purports to incorporate and re-allege paragraphs 1-123 of its Answer and each of its Affirmative Defenses, but denies the substance of such allegations.
2. Plaintiff admits the allegations of Counterclaim paragraph 2. Plaintiff also states that its First Amended Complaint asserts that Kyocera is infringing U.S. Pat. No. 6,760,728.
3. Plaintiff admits that Kyocera has denied infringement of the '275, '645, 064, '342, '381, '781, '949, and '459 patents, but denies the substance of such allegations.
4. Plaintiff admits the allegations of Counterclaim paragraph 4.
5. Plaintiff denies the allegations of Counterclaim paragraph 5.

6. Plaintiff admits the allegations of Counterclaim paragraph 6.

SECOND COUNTERCLAIM

7. Plaintiff admits that Kyocera purports to incorporate and re-allege paragraphs 1-123 of its Answer and each of its Affirmative Defenses, but denies the substance of such allegations. Plaintiff admits that Kyocera purports to incorporate and re-allege paragraphs 1-6 of its Counterclaims. Plaintiff incorporates and re-alleges paragraphs 1-6 of this Reply.

8. Plaintiff admits the allegations in the first sentence of Counterclaim paragraph 8. Plaintiff also states that its First Amended Complaint asserts that U.S. Pat. No. 6,760,728 is valid. With respect to the second sentence of Counterclaim paragraph 8, Plaintiff admits that Kyocera has asserted that the '275, '645, 064, '342, '381, '781, '949, and '459 patents are invalid, but denies the substance of such allegations.

9. Plaintiff denies the allegations of Counterclaim paragraph 9.
10. Plaintiff denies the allegations of Counterclaim paragraph 10.
11. Plaintiff admits the allegations of Counterclaim paragraph 11.

DEMAND FOR JURY TRIAL

12. Plaintiff admits that Kyocera demands a trial by jury of any and all issues in this action so triable and has likewise requested a trial by jury on all issues.

PRAYER FOR RELIEF

13. Although no answer is required to Kyocera's request for relief, Plaintiff denies all allegations in sub-paragraphs (A) through (G) and further denies that Kyocera is entitled to any relief whatsoever.

PLAINTIFF'S PRAYER

Plaintiff prays for the following relief:

- A. All relief sought in Plaintiff's First Amended Complaint;

- B. Dismissal of Kyocera's Counterclaims and judgment that that Kyocera take nothing;
- C. Judgment declaring that Kyocera infringes one or more claims of U.S. Pat. No. 7,076,275, U.S. Patent No. 6,950,645, U.S. Patent No. 7,506,064, U.S. Patent No. 7,533,342, U.S. Reissue Patent No. 40,459, U.S. Patent No. 6,317,781, U.S. Patent No. 6,470,381, U.S. Patent No. 7,693,949, and/or U.S. Pat. No. 6,760,728;
- D. Judgment declaring that U.S. Pat. No. 7,076,275, U.S. Patent No. 6,950,645, U.S. Patent No. 7,506,064, U.S. Patent No. 7,533,342, U.S. Reissue Patent No. 40,459, U.S. Patent No. 6,317,781, U.S. Patent No. 6,470,381, U.S. Patent No. 7,693,949, and U.S. Pat. No. 6,760,728 are valid and enforceable;
- E. Judgment that Kyocera account for and pay to Plaintiff all damages to and costs incurred by Plaintiff because of Kyocera's infringing activities;
- E. Judgment declaring that Kyocera account for and pay to Plaintiff a reasonable, on-going, post-judgment royalty because of Kyocera's infringing activities;
- E. An award of Plaintiff's fees and costs in defending against Kyocera's Counterclaims, together with pre-judgment and post-judgment interest in the maximum amount provided by law; and
- F. Any and all further relief for Plaintiff as the Court may deem just and proper.

Dated: February 11, 2011

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of February, 2011, I electronically filed the foregoing document with the clerk of the court for the U.S. District Court, Eastern District of Texas, Tyler Division, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to the attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means.

/s/ Edward R. Nelson, III